

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**  
DISTRICT COURT OF GUAM

JUL 10 2007 *TSP*

MARY L.M. MORAN  
CLERK OF COURT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

JOHNNY WU SU,

Defendant - Appellant.

No. 06-10644

D.C. No. CR-01-00089-MCE

**JUDGMENT**

Appeal from the United States District Court for the USDC - UNITED STATES DISTRICT COURT OF GUAM (HAGATNA).

This cause came on to be heard on the Transcript of the Record from the United States District Court for the USDC - UNITED STATES DISTRICT COURT OF GUAM (HAGATNA) and was duly submitted.

On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is **AFFIRMED**.

Filed and entered 06/14/07

A TRUE COPY  
ATTEST 7/6/07  
CATHY A. CATTERSON  
Clerk of Court  
by: *[Signature]*  
Deputy Clerk

**NOT FOR PUBLICATION****JUN 14 2007**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNNY WU SU,

Defendant - Appellant.

No. 06-10644

D.C. No. CR-01-00089-MCE

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Guam  
Morrison C. England, District Judge, Presiding

Submitted June 5, 2007\*\*

Before: LEAVY, RYMER, and T.G. NELSON, Circuit Judges.

Johnny Wu Su appeals from the 30-month sentence imposed after  
revocation of his supervised release. We have jurisdiction pursuant to 28 U.S.C.  
§ 1291, and we affirm.

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\* This disposition is not appropriate for publication and is not  
precedent except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

Su contends that the district court erred in sentencing him to 30 months of custody because his drug offense was incorrectly categorized as a Grade A violation rather than a Grade B violation.

Because Su agreed with the government's categorization of his drug offense as a Grade A violation, requested that the district court adopt the government's sentencing recommendation of 30 months, and failed to object to the sentencing recommendations, we conclude that Su has waived his right to challenge the categorization of his violation, *see United States v. Visman*, 919 F.2d 1390, 1394 (9th Cir. 1990), and the district court did not err.

**AFFIRMED.**

